

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, October 1, 2002

Division One

A096462 -- In re Terry B., a Person Coming Under the Juvenile Court Law. The People v. Terry B.

The judgment (commitment to the California Youth Authority) is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A098125 -- The People v. Abner Dighero.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

A092437 -- The People v. Charles Hopkins and Tyger Jenkins.

The judgments appealed from are affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A096188 & A094808 -- Francis Scarpulla et al. v. George Roscoe et al.

The trial court could not find, as a matter of law, from the evidence surrounding the transfer of the 15-acre parcel from W.H. Roscoe in 1897 and 1901 that Scarpulla possessed an implied easement to cross George Roscoe's land to access the lands he acquired from the Rosaia and Mullen families and other individuals. The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Tuesday, October 1, 2002 (continued)

Division Two

A095910 -- The People v. Bernard Sices.

We must presume the trial court intended to impose a sentence authorized by law. The trial court could not defer entry of judgment because respondent does not qualify for the diversion program. We also cannot conclude that the trial court implemented probation, because the record does not support that conclusion. The actual intent of the trial court is ambiguous; we must therefore remand this case for resentencing. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A094322 -- The People v. Gregory Young.

The judgment is affirmed as to the conviction of possession of a firearm, and it is reversed as to the conviction of assault with a handgun. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Tuesday, October 1, 2002

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Ruvolo, Acting Presiding Justice and S. Graham, Deputy Clerk.

A097453 Leila Massey

v.

Kaiser Foundation Health Plan, et al.

Order to Show Cause called and argued by Gary Lafayette and Forrest Fang, counsel for appellants and Paul Rein, counsel for respondent. Parties informed that O.S.C. to be continued to Thursday, October 3, 2002 unless settlement agreement signed and judgment paid.

Court adjourned.

Wednesday, October 2, 2002

Division Five

A095884 -- R. Ted Haas v. Aeromedical Group, Inc. and Does 1 through 20 inclusive.

The order vacating the judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A094960 -- Ming F. Woo et al v. Eric W. Lien et al.

We affirm the trial court's determination that Woo and Lucky United are not entitled to damages for breach of contract, fraud, abuse of process, or breach of fiduciary duty. We also affirm the trial court's determination that prior to Woo's purported exercise of his right of first refusal, Woo owned a 37.5 percent interest in the Property, Lien owned a 37.5 percent interest in the Property, and Yen owned a 25 percent interest in the Property. We conclude that the trial court erred in its determination that Woo did not exercise his right of first refusal in December 1999, and we therefore reverse its judgment for Lien on Woo's sixth cause of action and Lien's cross-complaint. The evidence adduced during the first trial does not support the conclusion that Woo's exercise was invalid. However, we remand to afford Lien the opportunity to introduce additional evidence confined to establishing any affirmative defenses he may have to Woo's purported exercise. The judgment is affirmed in part, reversed in part, and remanded for further proceedings consistent with this opinion. Because neither side is the prevailing party in this appeal, each side shall bear its own costs on appeal. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Thursday, October 3, 2002

Division One

A098464 -- Manuel Trotter v. William L. Jamison.

The order denying the second motion to vacate renewal of judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A094397 -- The People v. David Turecki.

For all of the foregoing reasons, we conclude the erroneous instruction was prejudicial, and requires reversal. As we explain *infra*, absent the *Ireland* error the evidence of implied malice was sufficient to support a verdict of second-degree murder, and we therefore remand to give the prosecution the opportunity to retry the murder charge upon correct instructions. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A088192 -- Xytest Corporation, et al. v. Somerset Capital Corporation, et al.

Under the compulsion of Adams, we reverse the award of \$250,000 in punitive damages. In all other respects the judgment is affirmed. The matter is remanded to the trial court for the purpose of taking evidence on Somerset Capital Corporation, James Mitchell and Mary Mitchell's present and future financial condition and redetermining the amount of punitive damages, if any, to be awarded. Plaintiffs and respondents shall recover their costs on appeal. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Five

A096746/A097008 -- Stephen T. Davies v. Steven A. Schectman et al.

The judgment is affirmed as to all causes of action except the breach of contract and quantum meruit causes of action. The judgment is reversed as to the causes of action for breach of contract and for quantum meruit, and the matter is remanded for proceedings on those claims. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Thursday, October 3, 2002 (continued)

A099272 -- In re Jon G., a Person Coming Under the Juvenile Court Law. The People of the State of California v. Jon G.

By the Court: On the court's own motion, this appeal is dismissed. Shirley D., mother of Jon G., purports to appeal an order continuing Jon as a ward of the court. (Welf. & Inst. Code, § 727.) A mother may not appeal from such an order. (*In re Almalik S.* (1998) 68 Cal.App.4th 851.) Jon's own appeal from the court's earlier wardship decision, filed in *People v. Jon G.*, A097274, is proceeding with appointed counsel. Jones, P.J.

A096364 -- The People v. Carlos Castron Taylor.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A097068 -- The People v. Lemael Turner.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A097607 -- In re Jesse V., a Person Coming Under the Juvenile Court Law. The People v. Jesse V.

The order adjudicating appellant a ward of the court and committing him to the care of the probation department for placement at Log Cabin Ranch School is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A096145 -- Ming F. Woo et al. v. Eric W. Lien et al.

The trial court's order awarding Lien and Yen their attorney fees and costs is reversed. Each side shall bear its own costs on appeal. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A099343 -- Joe Wu, et al. v. Hemlab Court Homeowners Association.

By the Court: Respondent's motion to dismiss the appeal, filed herein on September 16, 2002, is granted and the appeal is dismissed. Respondent's motion for sanctions, filed herein on September 16, 2002, is denied. Jones, P.J.

Friday, October 4, 2002

Division One

A096713 -- In re the Marriage of Bert J. Postma and A. Catrin Hasson.

The judgment is affirmed. Costs on appeal are awarded to the respondent, Postma. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A074986 -- The People v. James R. Metters.

By the Court: The petition for rehearing is denied. (Kline, P.J. would grant the petition for rehearing.) Kline, P.J.

A097245 -- The People v. David John Pullman.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A096610 -- Theodore H. Chenoweth v. Vedanta Society, et al.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Division Four

A096144 -- Joseph Brazil, Jr. v. John Brazil, Individually and as Trustee, etc., et al., Constance Brazil, Individually and as Trustee, etc., et al.

The judgment is affirmed. Plaintiff shall pay to defendants sanctions in the amount of \$26,209.28 for filing of a frivolous appeal. Defendants shall recover their costs on appeal. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Monday, October 7, 2002

Division One

A093355, A095611 -- Katrina R. LaChapelle v. Toyota Motor Credit Corporation et al.

The judgment is affirmed. The order awarding attorney's fees is affirmed. Respondents are entitled to their costs and to reasonable attorney fees incurred on appeal. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Certified for Publication.)

Division Two

A097109 -- Harry Low, as Insurance Commissioner of the State of California v. Golden Eagle Insurance Company, Inland Marine Industries, Inc.

We affirm. Haerle, J. We Concur: Kline, P. J., Ruvolo, J. (Not for Publication.)

Tuesday, October 8, 2002

Division One

A094024 -- The People v. Richard White.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A096229 -- Diane M. Boyd v. Stephen A Sam.

The July 11, 2001, order is reversed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A097338 -- The People v. Salvador Clavel.

The appeal is dismissed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

A094073 -- In re Victor F., a Person Coming Under the Juvenile Court Law. The People v. Victor F.

The judgment (order of wardship) is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A094268 -- The People v. Tanya T. Jenkins.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A093947 -- The People v. Gary Lee Roberson, Jr.

We affirm the judgment. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Tuesday, October 8, 2002 (continued)

Division Three

A096741 -- Lawrence J. Slatkin et al. v. Barry L. White.

The order denying the preliminary injunction is affirmed. Pollak, J. We
Concur: McGuiness, P.J., Parrilli, J. (Certified for Publication.)

A095755 -- Sherree Tyszkiewicz v. Acordia, Inc., et al.

The judgment is affirmed with respect to all causes of action except those
for age and gender discrimination and wrongful termination in violation of public
policy, as to which the judgment is reversed and the matter remanded for further
proceedings consistent with this opinion. Tyszkiewicz shall recover her costs on
appeal. Pollak, J. I Concur: McGuiness, P.J. (Not for Publication.) (Concurring
opinion by McGuiness, P.J. I Concur: Corrigan, J.)

Wednesday, October 9, 2002

Division One

A097890 -- In re Marriage of Patricia and William Durfee.

The appeal is dismissed. Each party to bear its own costs. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A091096 -- The People v. Jaime Wilfredo Torres.

Appellant's conviction for violating section 288.5 is vacated. In all other respects, the judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Certified for Partial Publication.)

Division Two

A098720 -- In re Veronica A., a Person Coming Under the Juvenile Court Law. The People v. Veronica A.

The orders adjudicating appellant a ward of the court and committing her to the CYA are affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A096044 -- The People v. Melchor Narez Gadiane.

Our review of the record discloses no errors with reference to the various motions heard by the court, instructions and sentencing. We find no issues that require further briefing and the judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A095951 -- Sara Rain Nelson v. Fog City Diner, Inc. et al.

We reverse the judgment. The case is remanded to the trial court for a determination of the amount of the award of attorney fees and costs on appeal. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Wednesday, October 9, 2002 (continued)

A098182 -- The People v. Antwan Lawrence Waters.

The order revoking probation and the judgment imposed are affirmed.
Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE
Wednesday, October 9, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness P.J., Parrilli J., Pollak, J. and I. Calanoc, Deputy Clerk. Corrigan, J. was not present at oral argument. Counsel agreed to waive Justice Corrigan's presence.

A095422 O. S. Williams, Jr.,
 v.
 William B. Miller, et al.
Justice McGuiness announced the panel for this case is comprised of Parrilli, J., Corrigan, J. and McGuiness, P.J. Cause called and argued by Thomas LaLanne, counsel for appellant, and Robert Donovan, counsel for respondents. Cause ordered submitted.

A097325 Kandi Kaufman,
 v.
 Joe Monte, et al.
Justice McGuiness announced the panel for this case is comprised of Parrilli, J., Corrigan, J. and McGuiness, P.J. Cause called and argued by Duane Tucker, counsel for appellant; Felix Seidler and Seth Feinberg, counsel for respondents. Cause ordered submitted.

A097652 William Townsend,
 v.
 Verizon Communications, Inc.
Justice McGuiness announced the panel for this case is comprised of Parrilli, J., Corrigan, J. and McGuiness, P.J. Cause called and argued by John Allured, counsel for appellant and Kristin Myles, counsel for respondent. Cause ordered submitted.

A094563 Malcolm W., a Minor, etc., et al.,
 v.
 Novato Unified School District, et al.
Justice McGuiness announced the panel for this case is comprised of Pollak, J., Corrigan, J. and McGuiness, P.J. Cause called and argued by Pamela Price, counsel for appellants, and Dennis Walsh, counsel for respondents. Cause ordered submitted.

- A097949 Kaia Balsz, et al.,
v.
Keith Hall, et al.
Justice McGuiness announced the panel for this case is comprised of Pollak, J., Parrilli, J. and McGuiness, P.J. Cause called and argued by Julie Garfield, counsel for appellants and Adron Beene, counsel for respondents. Cause ordered submitted.
- A097051 Memphis Latchison,
v.
Nina Wax.
Justice McGuiness announced the panel for this case is comprised of Pollak, J., Parrilli, J. and McGuiness, P.J. Cause called and argued by Robert Evans, counsel for appellant and Trudy Martin, counsel for respondent. Cause ordered submitted. After this case, McGuiness, P.J. left the bench.
- A095634 Marble House Investments,
v.
Angel Manosca.
Justice Parrilli announced the panel for this case is comprised of Corrigan, J., Pollak, J. and Parrilli, J. Cause called and argued by John Wiley, counsel for appellant; Daniel Stea and Alex Shlafman, counsel for respondent. Cause ordered submitted.
- A096045 The People,
v.
Randy Scott Ellingson.
The panel for this case is comprised of Corrigan, J., Pollak, J., Parrilli, J. Cause called and argued by Mark Shenfield, counsel for appellant and Bruce Ortega, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Wednesday, October 9, 2002 (continued)

Division Five

A098725 -- In re Jennifer J., a Person Coming Under the Juvenile Court Law. The People v. Jennifer J.

The orders adjudicating appellant a continued ward of the court and committing her to the CYA are affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

A096900 -- The People v. Joaquin Santos Novella.

The order granting appellant probation is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A095637 -- The People v. Nicholas Hayes Rae.

By the Court: The opinion filed September 19, 2002 is modified as follows: (See order.) Respondent's petition for rehearing filed October 2, 2002 is denied. The modification does not affect the judgment. Jones, P.J.

Thursday, October 10, 2002

Division One

A096865 -- In re David C., a Person Coming Under the Juvenile Court Law. The People v. David C.

The order committing appellant to CYA is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

A097164 -- David Del Dotto v. Dale Buller.

The judgment is reversed. Costs on appeal are awarded to appellant. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A095299 -- In re John E. Dannenberg on Habeas Corpus.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Division Five

A096035 -- The People v. Matthew Lloyd Gill.

The sentence on count IV is ordered stayed pursuant to section 654. The judgment is otherwise affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A095579 -- The People v. Paul Eugene Weber.

The appeal is dismissed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Friday, October 11, 2002

Division Three

**A095698 -- Insurance Commissioner; Golden Eagle Insurance
Company v. Fred Gluckman, et al.**

By the Court: The petition for rehearing is denied. McGuiness, P.J. (Not
for Publication.)

Tuesday, October 15, 2002

Division One

A096290 -- The People v. Marco Anthony Hermosillo.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A100341 -- In re Marriage of Randi and Michael Petersen; Randi Petersen v. Michael Petersen.

By the Court: On the court's own motion, the appeal is dismissed because the challenged order is not appealable. Appellant purports to appeal an order filed August 2, 2002. The ruling appellant seeks to appeal is the court's denial of her motion for reconsideration. She had asked the trial court to reconsider its denial for her motion to remove the attorney appointed by the court to represent the minor children of the marriage. Appellant asserts that the challenged order is appealable because it is a final order of the family court. Appellant admits, however, that the underlying action is proceeding and that trial is set for February 27, 2003. Appeal is barred by the final judgment rule. Marchiano, P.J.

Division Two

A097513 -- The People v. Karim Love.

The order is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A096291 -- The People v. Richie Winn Michelson.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A096787 -- The People v. Todd Strickland.

We affirm the judgment of sentence. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Tuesday, October 15, 2002 (continued)

Division Three

A096201 -- Jennifer S. Vaillancourt v. The Gap, Inc.

The judgment is reversed and remanded for further proceedings consistent with this opinion. Vaillancourt shall recover her costs on appeal. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A097753 -- In re Sumner S., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Services Agency v. David S., et al.

The order terminating parental rights is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A090283 -- The People v. Louis William Wagner.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, October 15, 2002

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Reardon, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A093760

People

v.

Wayne Douglas Schick

Cause called. Gary Nelson teleargued for appellant Schick. Seth Schalit argued for respondent. Letter briefs, not to exceed 5 pages, within 1 week. Cause to be submitted.

The Court adjourned at 9:57 a.m.

Wednesday, October 16, 2002

Division Two

A098628 -- The People v. Andre Lance Dews.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J.,
Ruvolo, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, October 16, 2002

The Court met at 10:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P. J., Haerle, J., Ruvolo, J. and I. Santos, Deputy Clerk.

A094493/
A098245 The People,
 v.
 Monte John Williams.
Cause called and argued by Thea Greenhalgh, counsel for appellant, and Christopher Wei, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A093514 The People,
 v.
 Michael L. Edgar.
Cause called and argued by Richard Such, counsel for appellant, and George Hindall, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A095649 The People,
 v.
 Jeffrey Richard Favro.
Cause called and argued by Stephen Matchett, counsel for appellant, and Eric Share, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Lambden, J., Ruvolo, J. and I. Santos, Deputy Clerk.

- A096175 The People,
 v.
 Kathren Tennell Reed.
 Cause called and argued by Violet Grayson Elizabeth, counsel for
 appellant, and Ayana Cuevas, Deputy Attorney General, counsel for
 respondent. Cause ordered submitted.
- A098228 Michael Barnard et al.,
 v.
 Bank of America.
 Cause called and argued by George Harris, counsel for appellant, and
 Allison Hargrave, counsel for respondent. Cause ordered submitted.
- A097954 Patrick Quick et al.,
 v.
 Susan Bond.
 Cause called and argued by Robert Weiss, counsel for appellant, and Caren
 Callahen, counsel for respondent. Cause ordered submitted.

Court recessed until Thursday, October 17, 2002 at 9:30 a.m.

Wednesday, October 16, 2002 (continued)

Division Three

A097051 -- Memphis Latchison, Jr. v. Nina Wax.

In sum, the notice of appeal from the order of May 11, 2001, was not timely filed. Compliance with the time for filing the notice of appeal is both mandatory and jurisdictional. (*Pressler v. Donald L. Bren Co.* (1982) 32 Cal.3d 831, 835.) Accordingly, the appeal is dismissed. Wax to bear costs of appeal. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Four

A098630 -- The People v. Frank Domino.

The order imposing appellant's previously stayed state prison commitment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A097336 -- The People v. Sandy L. Pressey.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Certified for Publication.)

A096877 -- In re Jonathan S., a Person Coming Under the Juvenile Court Law. The People v. Jonathan S.

The order is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A098222 -- The People v. Carlos Lino Javier Naredo.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Friday, October 17, 2002

Division One

A094233 -- In re the Marriage of Anna and Jerry Litmon.

The sanctions order entered in this case on January 8, 2001 is reversed. The order setting aside the judgment of dissolution is remanded for modifications consistent with the views expressed herein. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A084367 -- Joseph Naegele, as Co-Trustee, etc., et al. v. R.J. Reynolds Tobacco Company et al.

A084371 -- Richard Donaldson, as Successor in Interest v. R.J. Reynolds Tobacco Company et al.

The judgment is reversed as to the eighth and tenth causes of action and remanded to the trial court with directions to overrule the demurrer as to those causes of action. In all other respects, the judgment is affirmed. Appellants are entitled to costs on appeal. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A096199 -- The People v. Rebecca Ann Paulson.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A094369 -- The People v. James Anthony Dickerson, Jr.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A097462 -- In re Marriage of Sally F. and Samuel Kornhauser.

The orders are affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, October 17, 2002

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P.J., Haerle, J., Lambden, J. and S. Graham, Deputy Clerk.

A097704 Richard S. Haas
 v.
 Roy Meisner, et al.
Cause called and argued by George Gigounas, counsel for appellant and Joseph E. Wiley, counsel for respondents. Cause ordered submitted.

A096946 Belinda Von Tonder, et al.
A097317 v.
 Chevron Corp., et al.
Causes called and argued by Elizabeth Cabraser, counsel for appellants and Craig Stewart, counsel for respondents. Causes ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Haerle, Acting P. J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

A094551 Dorothy Lacey
 v.
 Northbay Health Care Services, et al.
Cause called and argued by Geoffrey Becker, counsel for appellant and Sonja Dahl, counsel for respondents. Cause ordered submitted.

- A095377 Leslie Citroen
 v.
 Town of Corte Madera, et al.
 Cause called and argued by appellant Leslie Citroen, in propria persona and
 Robert Helmenstine, counsel for respondents. Cause ordered submitted.
- A095880 Susan Coggins, et al.
 v.
 The Gap, Inc.
 Cause called and argued by James F. Tritt, counsel for appellant and
 Wendy Kosanovich, counsel for respondent. Submission deferred 10 days
 to allow appellant to submit a supplemental letter brief.
- A098326 Monique Romagosa
 v.
 The Gap, Inc.
 Cause called and argued by Reed Mavey, counsel for appellant and Marcia
 Pope, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Friday, October 18, 2002

Division Two

A096312 -- In re Angelique B. et al., Persons Coming Under the Juvenile Court Law. Rosetta E. v. Alameda County Social Services Agency.

The orders made at the section 366.26 hearing are affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A098602 -- Janet Yip v. Aaronson, Dickerson, Cohn & Lanzone et al.

Accordingly, we deny respondents' requests for sanctions and to declare Yip a vexatious litigant. Yip's appeal, however, is untimely. We hereby dismiss the appeal. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Division Four

A097600 -- In re John R., a Person Coming Under the Juvenile Court Law. The People v. John R.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A097945 -- The People v. Steven Philip Wedro.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

A093862 -- The People v. Tshombe Kelley.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, October 18, 2002 (continued)

A099652 -- In re Joseph O., a Person Coming Under the Juvenile Court Law. Don O. v. Superior Court of the County of Solano. Solano County Department of Health and Social Services, R.P.I.

The petition for extraordinary writ review and request for stay are denied on their merits. (Cal. Const., art. VI, § 14; rule 39.1B(o) *Kowis v. Howard* (1992) 3 Cal.4th 888, 894. Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26. (§ 366.26 subd. (1). Because the section 366.26 hearing is set for November 13, 2002, our decision is final as to this court immediately. (Rule 24(d).) Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

Monday, October 21, 2002

Division Two

A093866 -- The People v. Edis Barrientos.

We affirm. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A096500 -- The People v. Michael B. Bickham.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A096632 -- The People v. Jose Alfredo Leal Godinez.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

A095749 -- The People v. William Alford.

The June 26, 2001 order revoking outpatient status and denying restoration of sanity is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Division Four

A096892 -- The People v. Alan Cooke.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A097329 -- The People v. Hurmon Lamech Hamilton.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Certified for Publication.)

Tuesday, October 22, 2002

Division One

A099363 -- The People v. John Lee Engle.

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A096658 -- The Governor Gray Davis Committee v. American Taxpayers Alliance.

By the Court: The petition for rehearing is denied. Swager, Acting P.J.

Division Two

A096349 -- The People v. Kevin Patrick Conway.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

A097325 -- Kandi Kaufman v. Joe Monte, et al.

The judgment is affirmed. Appellant shall bear costs of the appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A095634 -- Angel Manosca v. Marble House Investments, Inc.

The appeal is dismissed. Each side to bear its own costs. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

A097652 -- William Townsend v. Verizon Communications, Inc.

The judgment is affirmed. Verizon shall recover its costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Tuesday, October 22, 2002 (continued)

Division Three

A095422 -- O.S. Williams, Jr. v. William B. Miller, et al.

The judgment is affirmed. The cross-appeal is dismissed as moot. Defendants shall recover their costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A097575 -- Tom Church v. Attic (Self) Storage et al.

By the Court:* Plaintiff filed a notice of appeal from the order denying his motion for reconsideration of a previous order made by the trial court. An order denying a motion for reconsideration is not appealable. (*E.g., Reese v. Wal-Mart Stores, Inc.* (1999) 73 Cal.App.4th 1225, 1242 and decisions cited; *San Francisco Unified School Dist. v. W.R. Grace & Co.* (1995) 37 Cal.App.4th 1318, 1322-1323, fn. 1.) The purported appeal is dismissed. (Not for Publication.)

*Kay, P.J., Reardon, J. and Sepulveda, J.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, October 22, 2002

The Court was "circuit-riding" at Golden Gate University, 536 Mission Street, San Francisco. Court convened at 9:45 a.m. Present: Kay, P.J., Reardon, J., Sepulveda, J., and Rivera, J.; Channing Hoo and Pamela Aguilar, Deputy Clerks; CHP Officers Vincent Chambers, Aron Ching, and Virgil Aguilar, Bailiffs.

A093112

People

v.

Kevin Lionel Robinson

The panel for this case was Kay, P.J., Sepulveda, J., and Rivera, J.

Cause called. Donald Horgan argued for appellant Robinson on open. Thomas Brady argued for respondent. Dennis Riordan argued for appellant on close.

Cause submitted.

The Court recessed for 2 minutes.

A096182

Joshua Markowitz

v.

Hastings College of Law

The panel for this case was Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

Cause called. Neal Markowitz argued for appellant Markowitz. John F. Baum argued for respondent. Jeffrey Blair argued for amicus in support of

respondent. Cause submitted.

The Court recessed for 2 minutes.

A096895

People

v.

Brett Lamar Rush

The panel for this case was Kay, P.J., Reardon, J., and Rivera, J.

Cause called. Deborah Wald argued for appellant Rash. Ronald Niver argued for respondent. Cause submitted.

The Court recessed for 2 minutes.

A094519 William Yu et al.

A095102 v.

Signet Bank/Virginia et al.

The panel for this set of consolidated cases was Kay, P.J., Reardon, J., and Sepulveda, J.

Causes called. Jim McCabe argued for litigants Signet et al. James Sturdevant argued for litigants Yu et al. Causes submitted.

The Court adjourned at 12:25 p.m.

Wednesday, October 23, 2002

Division One

A098232 -- Brack Zollo v. California Franchise Tax Board.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

A096668 -- David Kitchen etc., et al. v. Lawrence Angelel.

The court did not err in granting summary judgment to respondent. The judgment is affirmed. Respondent is awarded its costs on appeal. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Three

A097949 -- Kaia Balsz et al. v. Keith Hall et al.

The judgment is reversed and the action is remanded for further proceedings consistent with this opinion. Pollak, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, October 23, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Corrigan, J., Parrilli J., Pollak, J. and I. Calanoc, Deputy Clerk. McGuiness, P.J. was not present at oral argument. Counsel agreed to waive Justice McGuiness's presence.

- A097227 The People,
 v.
 Anthony Lashay Jackson.
Cause called and argued by David Harrison, counsel for appellant, and
Dorian Jung, counsel for respondent. Cause ordered submitted. Pollak, J.
left the bench after this case.
- A097464 Clifford Sloan,
 v.
 Carlino Bettega.
Corrigan, J. announced the panel for this case is comprised of Parrilli, J.,
McGuiness, P.J. and Corrigan, J. Cause called and argued by Thomas
Virsik, counsel for appellant, and Stephen Johnson, counsel for respondent.
Cause ordered submitted.
- A093240 Russian River County Sanitation
 District et al.,
 v.
 Regional Water Quality Control
 Board for the North Coast Region.
Cause called and argued by Marc Melnick, counsel for appellant, and
David McFadden, counsel for respondent. Cause ordered submitted.
- A095912 San Franciscans for Reasonable
 Growth,
 v.
 City and County of San Francisco, et al.
Cause called and argued by Stephan Volker, counsel for appellant; and
Kristen Jensen and Susan Cleveland, counsel for respondents. Cause
ordered submitted.

A094727 City and County of San Francisco,
A095451 v.
Linda Harrington, as Temporary
Conservator, etc., et al.
Cause called and argued by Philip Keith (counsel for appellant William
Pon), and appellant pro per Agnes Pon; and by Thomas Lakritz and
Kimberly Fanady, counsel for respondents. Cause ordered submitted.

A099656 Alfredo V.,
v.
Social Services Agency et al.
Cause called and argued by Martin Speno, counsel for appellant, and Ellen
Forman, counsel for respondent. Cause ordered submitted.

A096070 Rebecca Ver Meer,
v.
Jack Ver Meer et al.
Cause called and argued by Barry Meyer, counsel for appellant, and
Thomas Wright, counsel for respondent. Cause ordered submitted.

A094372 The People,
v.
Ever Quintanilla.
Via teleconferencing, cause called and argued by Eleanor Kraft, counsel for
appellant, and Christopher Wei, counsel for respondent. Cause to be
submitted upon receipt of simultaneous briefing from counsel, by close of
business day on Tuesday, October 29, 2002.

COURT ADJOURNED

Wednesday, October 23, 2002 (continued)

Division Five

A097937 -- The Exordium Group, Inc., etc. v. Signatures Network, Inc., et al.

The order is reversed to the extent it awards Signatures \$1,080 in copying costs. In all other respects, the order is affirmed. Costs to appellant. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

A097597 -- In re Jerome G., a Person Coming Under the Juvenile Court Law. Department of Human Services v. Charlett R.

The judgment is reversed as to the disposition only. In all other respects, it is affirmed. The cause is remanded to the juvenile court with instructions to conduct a dispositional hearing. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A096673 -- In re Tarquin H., a Person Coming Under the Juvenile Court Law. Del Norte County Department of Health & Social Services v. Robin G.

The disposition order is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A097190 -- In re Rory J., a Person Coming Under the Juvenile Court Law. The People v. Rory J.

The judgment is reversed in part. The case is remanded to the juvenile court for the court to make a finding on the allegation of robbery in count 1 and for such further proceedings as are necessary in accordance with this opinion. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Thursday, October 24, 2002

Division One

A091096 -- The People v. Jaime Wilfredo Torres.

Order Modifying Opinion. The Court: It is ordered that the opinion filed herein on October 9, 2002, be modified as follows: (See order.) There is no change in the judgment. Marchiano, P.J. (Certified for Partial Publication.)

A094917 -- WaterKeepers Northern California et al. v. California State Water Resources Control Board, Regional Water Quality Control Boards for Regions 1 Through 9; Western States Petroleum Association; California Association of Sanitation Agencies.

The judgment is affirmed. Both parties are to bear their own costs on appeal. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Certified for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, October 24, 2002

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Margulies; B. Robbins, Deputy Clerk.

- A089581 In re Marriage of Richardson.
 Sally L. Richardson,
 v.
 Gary Lyle Richardson.
Cause called and argued by Gary Richardson, appellant in pro per, and Sally Richardson, respondent in pro per. Cause ordered submitted.
- A095373 Pacific Gas and Electric Company,
 v.
 City of Oakland.
Cause called and argued by Robert Stumpf, counsel for appellant, and Mark H. Penskar, counsel for respondent. Cause ordered submitted.
- A098070 In re Marriage of Wright and Dugan.
 Michele Wright,
 v.
 Kevin Dugan.
Cause called and argued by Michele Wright, appellant in pro per. There was no appearance for respondent. Cause ordered submitted.
- A097178 Gordon C. Rausser,
A097865 v.
 Jeffrey Spragens.
Cause called and argued by Paul. J. Dion, counsel for appellant, and Christopher G. Costin, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, October 24, 2002

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Swager, J.; B. Robbins, Deputy Clerk.

- A095859 The People,
 v.
 Gilbert Eugene Layson.
Cause called and argued by W. Richard Such, counsel for appellant, and Ann Wathen, counsel for respondent. Cause ordered submitted.
- A097145 Russian River Community Forum,
 v.
 County of Sonoma, et al.
Cause called and argued by R. Bruce Tepper, counsel for appellant. Lee Charles Rosenthal, counsel for respondent. Cause ordered submitted.
- A097961 George E. Mohun, et al.,
 v.
 Harold R. Ebright, Jr.
Cause called and argued by George Mohun, counsel for appellants, and Albert Bianchi, counsel for respondent. Cause ordered submitted.

Court recessed until Friday, October 25, 2002 at 9:00 a.m.

Thursday, October 24, 2002 (continued)

Division Two

A097469 -- Conservatorship of the Person and Estate of Mary Ann Greis.

The order denying the re-petition is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Four

A095331 -- Lynn Pardo et al. v. Santa Rosa City School District et al.

The Court: The petition for rehearing filed by appellants on October 11, 2002, is denied. The opinion filed herein on September 26, 2002, is ordered modified as follows: (See order.) There is no change in the judgment. Kay, P.J. (Not for Publication.)

A097694 -- Barbara G. Epis v. Vancamp Vai et al.

The judgment of dismissal is reversed and remanded with directions to grant plaintiff leave to amend. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A097519 -- Estate of Amelia Furia, Deceased.

The order denying Nanette Ann Furia Cameron's heirship petition is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Certified for Publication.)

A096179 -- In re Phon M., a Person Coming Under the Juvenile Court Law. The People v. Phon M.

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Friday, October 25, 2002

Division One

**A100053 -- Ethel S. v. The Superior Court of Del Norte County
Department of Health and Social Services.**

The requisite hearing was held. The challenged orders are supported by substantial evidence. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.) The petition for extraordinary writ is denied on the merits. (See Cal.Const., art VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for November 15, 2002. Therefore, our decision is final in this court immediately. Marchiano, P.J. We Concur: Stein, J., Swager, J.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Friday, October 25, 2002

The Court reconvened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., and Margulies, J.; and F. Abad, Deputy Clerk.

- A095821 Tin Angel, Inc.,
 v.
 City and County of San Francisco.
Cause called and argued by J. Brian McCauley, counsel for appellant, and Andrew Y.S. Cheng, counsel for respondent. Cause ordered submitted.
- A095897 Satma Rattan, et al.,
 v.
 East Bay Regional Park District, et al.
Cause called and argued by Robert John Hooy, counsel for appellant, and Paul David Fogel, counsel for respondent. Cause ordered submitted.
- A097544 Security Investment Group,
 v.
 Nicole Christine McConville.
Cause called and argued by Kevin Eickenberry, counsel for appellant, and Steven Morger, counsel for respondent. Cause ordered submitted.
- A098010 Syed Badshah Bhukhary,
 v.
 Ho In Kim.
Cause called and argued by Kennedy P. Richardson, counsel for appellant, and Thomas E. Fraysse, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Friday, October 25, 2002

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Swager, J., and Margulies, J.; and F. Abad, Deputy Clerk.

- A093765 The People,
 v.
 Robert E. Chambers.
Cause called and argued by Guy Anthony Campisano, counsel for appellant, and Catherine A. Rivlin, counsel for respondent. Cause ordered submitted.
- A093590 Peter Loewenstein, et al.,
 v.
 City of Lafayette.
Cause called and argued by E. Clement Shute, counsel for appellant, and David J. Bowie, counsel for respondent. Cause ordered submitted.
- A096591 V.J. Wilson,
 v.
 Lawrence Duke, et al.
Cause called and argued by Allan Merle Tabor, counsel for appellant, and Thomas French and Thomas Edward Pfalzer, counsel for respondents . Cause ordered submitted.

Court recessed until Monday, October 28, 2002 at 9:30 a.m.

Friday, October 25, (continued)

Division Two

A097861 -- Kenya Komizu v. Steve Gourley, Director Department of Motor Vehicles.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A092372 -- The People v. Mark Shew Fei Chin.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Four

A096781 -- The People v. Reuben Blanco.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Monday, October 28, 2002

Division One

A097984 -- The People v. James Darrell Adams.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J.,
Margulies, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Monday, October 28, 2002

The Court reconvened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Swager, J., and Margulies, J.; and B. Robbins, Deputy Clerk.

A094099 Project Inform,
A096376 v.
 Todd Swindell.

A094101 Project Inform,
A096378 v.
 Michael Bellefontaine.

A094102 Project Inform,
A096379 v.
 Ronnie Burk.

A094103 Project Inform,
A096380 v.
 Andrea Lindsay.

A095039 San Francisco AIDS Foundation,
 v.
 Betty Best, et al.
Causes called and argued by Andrea Lindsay, Todd Swindell and Michael Bellefontaine, appellants in pro per, and Maya Sinclair, counsel for San Francisco AIDS Foundation, and Amy Lovell, counsel for Project Inform. Causes ordered submitted.

Court adjourned.

Monday, October 28, 2002 (continued)

Division Three

A098759 -- The People v. Robert Eugene Fleshman, Jr.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A095827 -- San Franciscans Upholding the Downtown Plan et al. v. City And County of San Francisco, et al., Forest City Development, Inc., et al. R.P.I.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

A099045 -- The People v. Timothy Byron Mitchell.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A098423 -- In re Rebekah S. et al., a Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. Peter S.

The juvenile court's exit order is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Monday, October 28, 2002 (continued)

Division Five

A096526 -- Elise C. Marshall, et al. v. Clarissa S. Tannlund.

The order denying appellants' petition for a declaration that respondent is not a spouse under the Marshall trusts is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Tuesday, October 29, 2002

Division One

A097178 and A097865 -- Gordon C. Rausser v. Jeffrey Spragens.

The judgment denying specific performance and the subsequent order awarding attorney fees and costs are affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A097426 -- The People v. Derrill Calvin Smith.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

A097863 -- Neil Barton v. Susan AU-Yang, et al.

We affirm. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A093221 -- The People v. Charles James Chatman.

The matter is reversed and remanded for a retrial on the enhancement allegations, pursuant to sections 1170.12, subdivision (c)(2), and 667, subdivision (a), pertaining to the 1978 Alabama robbery conviction. The abstract of judgment is modified to strike the five-year prior conviction enhancement relating to the 1978 Alabama robbery. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Three

A093003 -- Kevin Conlan et al. v. Diana M. Bonta, as Director, etc., et al.

By the Court: Order Modifying Opinion and Denying Rehearing. It is ordered that the opinion filed herein on September 30, 2002, be modified in the following particulars: (See order.) The petition for rehearing is denied. There is no change in the judgment. McGuiness, P.J. (Certified for Publication.)

Tuesday, October 29, 2002 (continued)

A096045 -- The People v. Randy Scott Ellingson.

A098555 -- In re Randy Scott Ellingson on Habeas Corpus.

The judgment is affirmed and the petition for writ of habeas corpus is denied. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A096070 -- Rebecca Ver Meer v. Jack Ver Meer et al.

The civil harassment injunction and corresponding attorney fees award in case No. 226607 is affirmed. The domestic violence restraining order in case No. 1483 is vacated. Rebecca Ver Meer shall recover her costs on appeal. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A099656 -- Alfredo V. v. The Superior Court of San Francisco County; Social Services Agency et al., R.P.I.

The petition for extraordinary relief is denied on the merits. (See Cal Const. art. VI, § 14 *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Since the permanency planning hearing is set for November 13, 2002, our decision is immediately final as to this court. (Cal. Rules of Court, rule 24(d).) Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

MINUTES

COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

DIVISION FIVE

Tuesday, October 29, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J., Gemello, J., and Richard H. Sandvik, Deputy Clerk.

A09709 Rogelio Garcia et al.

5

v.

Farmers Group, Inc. et al.

Cause called and argued by Barnard R. Suter, counsel for appellant, and by Thomas S. Todd, counsel for respondent. Cause ordered submitted.

A09814 Sunset Aviation Inc.

6

v.

DHS Aviation Inc. et al.

Cause called and argued by Noreen Evans, counsel for appellant, and by James K. Perry, counsel for respondent. Cause ordered submitted.

A09543 The People

6

v.

Lamar Lavine Mack

Cause called and argued by Barbara Michel, counsel for appellant, and by Ann P. Wathen, counsel for respondent. Cause ordered submitted.

A09784 Otto A. Perucci et al.

6

v.

State of California Franchise Tax Board

Cause called and argued by John Newman, counsel for appellant, and by Harry G. Oliver, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Stevens left the bench and Justice Simons took his place.

A09665 Angee Adams

7

v.

City and County of San Francisco

Cause called and argued by Peter J. Keith, counsel for appellant, and by W. Ruel Walker, counsel for respondent. Cause ordered submitted.

A09811 Mary Lou Daw

5

v.

Director of the Department of Motor Vehicles

Cause called and argued by David A. Carrillo, counsel for appellant, and by Thomas E. Croak, Jr., counsel for respondent. Cause ordered submitted.

Court adjourned at 11:56 a.m.

Wednesday, October 30, 2002

Division One

A096992 -- In re Jorge R., a Person Coming Under the Juvenile Court Law. The People v. Jorge R.

The order placing appellant on probation is modified to offset the amount of restitution owed by appellant—\$8,196.13—by the sum of \$3,396.81, representing the payment made on appellant's behalf by his parents' insurance company. The order, accordingly, is modified to reduce the amount of restitution that appellant is ordered to pay to \$4,799.32. As so modified, the order is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A098260 -- In re Jessica S., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Robert S.

By the Court: Appellant's request for additional time to review the transcript of the hearing on January 15, 2002, is denied. The notice of appeal is not timely because it was filed more than sixty days after the making of the dispositional order. (California Rules of Court, rule 39.1(f).) The time limits specified in rule 39.1 (f) are jurisdictional, and the appeal must therefore be dismissed. (*In re Alyssa H.*, *supra*, 22 Cal.App.4th 1249, 1254.) Marchiano, P.J.

A095897 -- Jayanti Devi Singh et al. v. East Bay Regional Park District et al.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A100073 -- In re Lupe A., a Person Coming Under the Juvenile Court Law. Teresa R. v. Superior Court of Alameda County; Alameda County Social Services Agency, R.P.I.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888.) Petitioner is barred in any subsequent appeal from making further challenges to the order setting a hearing under section 366.26 (See § 366.26, subd. (1)(2).) Since the permanency planning hearing is set for November 22, 2002, this opinion is final as to this court forthwith. (Rule 24(d).) Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Wednesday, October 30, 2002 (continued)

A096852 -- The People v. John Wesley Fritch.

A099552 -- In re John Wesley Fritch.

The appeal is dismissed. The petition for writ of habeas corpus is denied. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A095703 -- Mary C. Keitel v. George W. Heubel, et al.

Our prior decision in this case is vacated. On reconsideration, the July 3, 2001, order is affirmed. In addition, the following monetary sanctions are imposed for abuse of the appellate process, including the unreasonable failure to comply with the Rules of Court: The Heubels shall pay \$3,700 to Keitel and \$6,000 to the clerk of this court. Attorney Bacon shall pay \$3,700 to Keitel. The clerk of this court is directed to deposit the sum paid by the Heubels into the general fund. All sanctions shall be paid no later than 15 days after the date the remittitur is filed. Keitel is awarded costs on appeal. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Certified for Publication.)

A097604 -- In re Richard P., a Person Coming Under the Juvenile Court Law. The People v. Richard P.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A095142 -- Robert G. Perez et al. v. Cree Edwards et al.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A094493 -- The People v. Monte John Williams.

A098245 -- In re Monte John Williams, on Habeas Corpus.

The judgment is affirmed. The petition for writ of habeas corpus is denied. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Wednesday, October 30, 2002 (continued)

Division Three

A098340 -- The People v. Marcus Hudson.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A098851 -- The People v. Paul Lorms.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A100120 -- Bruce A. Pelkey v. Linda C. Cavalli et al.

The motion to dismiss the appeal is granted. The request for attorneys' fees is denied. Respondent Cavalli is to recover her costs on appeal. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A093240 -- Russian River County Sanitation District et al. v. Regional Water Quality control Board for the North Coast Region.

The judgment is reversed. The trial court is directed to enter judgment denying the County's petition. The parties shall bear their own costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A097464 -- Clifford Sloan v. Carlino Bettega

The order granting injunctive relief is reversed. Bettega shall recover his costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A097080 -- American Overseas Air Freight, Inc. v. 330 Beach Street Investors, LLC.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Wednesday, October 30, 2002 (continued)

A096218 -- The People v. Gary William Kagel.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A096182 -- Joshua S. Markowitz v. University of California Hastings College of the Law.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A093112 -- The People v. Kevin Lionel Robinson.

Accordingly, the judgment of conviction is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A097095 -- Rogelio Garcia et al. v. Farmers Group, Inc., et al.

The judgment of dismissal is affirmed. The appellants' request for judicial notice is denied. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Thursday, October 31, 2002

Division One

A091751 -- The People v. Wilson Wayne Lee.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A096701 -- The People v. William Bruce.

The case is remanded to the trial court with instructions to vacate the one-year sentence imposed for the Penal Code section 12022, subdivision (b)(1), enhancement. Otherwise, the judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A096619 -- Dean Dunivan, et al. v. Gregg McCurdy, et al.

The judgment is affirmed. Each side shall bear its own costs on this appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A097227 -- The People v. Anthony Lashay Jackson.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A095705 -- Lawrence D. Miller v. Mitchell D. Ellis.

The judgment in favor of Miller against Ellis is reversed and remanded for entry of a revised judgment, pursuant to which Ellis shall be ordered to pay Miller the total sum of \$2,500. Each party shall bear his own costs on this appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Certified for Publication.)

Thursday, October 31, 2002 (continued)

A095817 -- Lawrence D. Miller v. Joseph Pisano.

The judgment is affirmed. Appellant Miller shall pay respondent Pisano's costs on this appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A095613 -- Margo Garcia-Pardini v. Genentech, Inc. Long Term Disability Plan, et al.

The order quashing the summons and complaint is affirmed. Each party to bear its own costs on appeal. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A094372 -- The People v. Ever Quintanilla.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A094727 -- City and County of San Francisco v. Linda Harrington, as Temporary Conservator, etc., et al.

A095451 -- City and County of San Francisco v. Linda Harrington, as Temporary Conservator, etc., et al.; Floyd L. Farano, Receiver and Respondent.

The judgment and orders are affirmed. Respondents are to recover their costs on appeal. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A095912 -- San Franciscans For Reasonable Growth v. City and County of San Francisco; Ron Kaufman, et al., R.P.I.

The appeal is dismissed. The parties are to bear their own costs on appeal. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A095054 -- The People v. Michael Scott Wyman.

The judgment is reversed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Thursday, October 31, 2002 (continued)

Division Four

A097758 -- In re Darrin C., Jr., a Person Coming Under the Juvenile Court Law. Employment and Human Services Department of Contra Costa County v. Darrin C.

The juvenile court's exit order, awarding sole legal and physical custody to mother and no visitation to father, is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A098172 -- In re Sky G., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Teresa G. et al.; Sky G.

The issue raised in this appeal by minor Sky G. is whether the trial court erred in ordering that minor's Welfare and Institutions Code section 366.26 (.26) hearing be postponed pending the outcome of a contingent relinquishment of parental rights by respondents Teresa G. and Roger. We have been advised that the relinquishment of parental rights has been rescinded, and that a .26 hearing for minor has been concluded. In view of these developments, the appeal is dismissed as moot, and appellant's request for judicial notice is denied as moot. In dismissing the appeal, we express no opinion as to the propriety of the challenged order. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

A097304 -- Jordan Rosenberg v. Golden Gate University, Inc., Peter Keane, Susan Schechter, et al.

The order denying Rosenberg's application for a preliminary injunction is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

MINUTES

COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

DIVISION FIVE

Thursday, October 31, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J., Gemello, J., and Richard H. Sandvik, Deputy Clerk.

A09575 The People

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v.

Erik Ernst Lovaas

Cause called and argued by Kathryn Seligman, counsel for appellant, and by William Kuimelis, counsel for respondent. Cause ordered submitted.

A09770 In re the Estate of Saleem H. Totah, Deceased.

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Mark L. Cederborg

v.

Faredah S. Totah

Cause called and argued by David K. Replogle, counsel for appellant, and by Richard G. Logan, counsel for respondent. Cause ordered submitted.

A09739 Michael Blodgett et al.

5

v.

Margaret Irvine

Cause called and argued by Stephen J. Kennedy, counsel for appellant, and by Steven J. Rood, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Jones left the bench and Justice Gemello took her place.

A09590 Michael Blodgett et al.
9 v.
Margaret Irvine
Cause called and argued by Stephen J. Kennedy, counsel for appellant, and by
Steven J. Rood, counsel for respondent. Cause ordered submitted.

A09635 The People
2 v.
Augustin Garcia Hernandez
Cause called and argued by John A. Halley, counsel for appellant, and by
William M. Kuimelis and Bethany A. Stahley, counsel for respondents.
Cause ordered submitted.

A09482 Edward M. O'Reilly et al.
6 v.
John Hansen et al.
Cause called and argued by John E. Carey, counsel for appellant, and by Tony
J. Tanke, counsel for respondent. Cause ordered submitted.

Court adjourned at 11:12 a.m.